

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff

-vs-

DECISION AND ORDER
21-CR-6063 CJS/MWP

TONY KIRIK

Defendant.

This case was referred by text order of the undersigned, entered April 23, 2021, to Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b)(1)(A)–(B), ECF No. 14. On December 8, 2022, Defendant filed an omnibus motion, ECF No. 36, seeking *inter alia*, suppression of tangible evidence seized, pursuant to a search warrant, on September 26, 2018 from 105 McLaughlin Road, Suite A. Defendant maintained that he was entitled to suppression for two reasons. First, he argued that the probable cause set forth in the search warrant application did not justify the breadth of items seized. Second, he contended that the search conducted by the executing offices was overbroad, since they seized items that were not specifically authorized in the warrant).

On August 1, 2023, ECF No. 55, an evidentiary hearing was held regarding Defendant's application to suppress tangible evidence. On December 5, 2023, Magistrate Judge Payson filed a Report and Recommendation ("R&R"), ECF No. 64. On December 14, 2023, Defendant timely filed objections to the R&R, ECF No. 67, and on January 4, 2024, Government filed a response, ECF No. 68, to Defendant's objections.

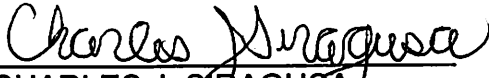
Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the R&R to which objections have been made. Upon a *de novo* review of the R&R, including a review of the transcript of the evidentiary hearing held on August 1, 2023, ECF No. 57, as well as exhibits received into evidence, the Court accepts Magistrate Judge Payson's proposed findings and recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Payson's R&R, ECF No. 64, Defendant's application to suppress tangible evidence, ECF No. 36, is denied.

IT IS SO ORDERED.

Dated: Rochester, New York
January 22, 2024

ENTER:



CHARLES J. SIRAGUSA
United States District Judge